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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,810	04/30/2002	Adrea Nascimbene	3573-13	6127
7590	05/12/2005		EXAMINER	
Nixon & Vanderhye 1100 North Glebe Road 8th Floor Arlington, VA 22201-4714			PEREZ, JULIO R	
			ART UNIT	PAPER NUMBER
			2681	

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/049,810	NASCIMBENE, ADREA
	Examiner Julio R Perez	Art Unit 2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 October 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 7-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 7-14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/19/02</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

Response to Arguments

1. Applicant's arguments with respect to claim 7-14 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "a *fixed subscriber access terminal*") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, an access point is generally used for communicating with user terminals, and, which may also be referred to as a base station, access node, radio node, or some other terminology; a subscriber or user access terminal may also be referred to as a user terminal, an access terminal, a mobile user terminal, a mobile station, a remote station, a user equipment (UE), a wireless device, or some other terminology, which being fixed or mobile can communicate with the access points (col. 7, 7-25; Fig. 1).

DETAILED ACTION

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 7-12, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi et al. (5724346).

Regarding claim 7, Kobayashi et al. disclose a point-multipoint radio communication system comprising plural radio nodes (Fig.1, refs. 12.1-12.2); and plural subscriber access terminals (Fig. 1), each subscriber access terminal being normally allocated to one of the plural radio nodes as its respective original radio node, the respective original radio node being an additional traffic capability, each subscriber access terminal having an antenna directed to its respective original radio node and being adapted to switch automatically and autonomously from the its respective original radio node to an alternative host radio node upon detecting failure of the respective original radio node (col. 7, lines 7-44; Fig. 1, the transferring of the mobile user station automatically switching from his home access point to another access point under the condition that the communication between the home access point and the user station worsens).

Regarding claim 8, Kobayashi et al. disclose, wherein at least one of the subscriber access terminals has redundancy switching logic (col. 7, lines 7-67; col. 8, lines 1-18, switching from home access point to a second access point when signal deterioration is detected).

Regarding claim 9, Kobayashi et al. disclose, further comprising a management system which controls the plural radio nodes and which detects and turns off said respective original radio node upon the failure, and which routes traffic connections

belonging to an affected one of the plural access terminals to said alternative host radio node (col. 7, lines 26-44).

Regarding claim 10, Kobayashi et al. disclose, wherein said management system communicates to the affected one of the plural access terminals to switch to the respective original radio node upon restoration of the original radio node (col. 7, lines 7-67; col. 8, lines 1-40).

Regarding claim 11, Kobayashi et al. disclose, wherein said alternative host radio node is located in a same hub as the respective original radio node (col. 7, lines 1-44; Figs. 1-2, the target access point may be located in same area as the home access point).

Regarding claim 12, Kobayashi et al. disclose, wherein said alternative host radio node is located in a hub different than the respective original radio node (col. 7, lines 7-44; Fig. 1).

Regarding claim 14, Kobayashi et al. disclose, wherein at least one of the plural access terminals is provided with a single antenna with electronically routed beams to the two different hubs (col. 7, lines 7-44; Fig. 1, the user terminal is provided with an antenna able to provide beaming on different access points).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. (5724346) in view of Kakayama et al. (6272335).

Regarding claim 13, Kobayashi et al. do not explicitly disclose, wherein at least of the plural access terminals is provided with two antennas directed towards said two different hubs and with a two-way radio frequency switch.

Kakayama et al. teach user terminal with sector antennas directing signals to a base station (col. 4, lines 16-34, 58-67; Fig. 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the communication system as taught by Kobayashi by implementing the system with diversity because it would provide Kobayashi's system with the enhanced capability of better communication and secure and efficient RF path.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio R Perez whose telephone number is (703) 305-8637. The examiner can normally be reached on 7:00 - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 703-306-0003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JP
5/6/05

E. Moise
EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER